

CAUSE NO. _____

MATTHEW JOSEPH ALLEN

VS.

STATE OF TEXAS

§ **IN THE COURT OF** FILED
 § COURT OF CRIMINAL APPEALS
 § 2/27/2019
 § **CRIMINAL APPEALS** DEANA WILLIAMSON, CLERK
 §
 § **STATE OF TEXAS**

**MOTION TO EXTEND TIME TO
 FILE PETITION FOR DISCRETIONARY REVIEW**

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes MATTHEW JOSEPH ALLEN, Appellant in the above styled and numbered cause, and moves for an extension of time of thirty (30) days to file a petition for discretionary review, and for good cause shows the following:

1. On July 17, 2018, the Court of Appeals, 5th Judicial District of Texas at Dallas REVERSED and AFFIRMED IN PART Appellant's conviction. *See MATTHEW JOSEPH ALLEN v. State of Texas*; Cause No. 05-17-00226-CR. Both the Appellant and Appellee filed *Motions for Rehearing*. On August 16, 2018 Appellant filed a Reply to the State's *Motion for Rehearing*.

2. On November 20, 2018, the Court of Appeals, 5th Judicial District of Texas withdrew its original memorandum opinion issued on July 17, 2018 and issued a new opinion which AFFIRMED IN PART AND REVERSED Appellant's

conviction. On December 18, 2018, Appellant filed a ***Motion for Rehearing*** and ***Motion for Reconsideration En Banc***.

3. On January 22, 2019, the Court of Appeals, 5th Judicial District of Texas denied Appellant's ***Motion for Rehearing*** and issued a Judgment ***Nunc Pro Tunc***. Finally, on January 24, 2019, the Court of Appeals, 5th Judicial District of Texas denied Appellant's ***Motion for Reconsideration En Banc***.

4. Counsel has been unable to complete the petition for the following reasons:

Counsel for Appellant is currently evaluating, reviewing, researching, and drafting appellate motions/pleadings/briefs in three (3) criminal appellate matters, pending in two (2) Texas courts of appeal. In addition, Counsel for Appellant also has four (5) pending post-conviction and/or post-deferred writs of habeas corpus. Finally, between the preparation for both felony jury and bench trial and misdemeanor jury and bench trials, Counsel for Appellant also maintains a criminal/civil/family docket of nearly 60 cases, in at least four (4) counties. In short, Counsel for Appellant does not have nearly enough hours in the day to complete all the daily tasks for which he is responsible.

5. Defendant is currently incarcerated.

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully requests an extension of thirty (30) days from today's date, i.e. until March 25, 2019, to file a petition for discretionary review.

Respectfully submitted,

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By: /s/ Marc J. Fratter
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Attorney for Appellant

CERTIFICATE OF SERVICE

This is to certify that on February 23, 2019, a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Collin County, Texas, by electronic delivery: daappeals@collincountytexas.gov.

/s/ Marc J. Fratter

Marc J. Fratter